

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Cleco Power LLC

Docket No. ER07-289-000

ORDER ACCEPTING NETWORK INTEGRATION TRANSMISSION SERVICE  
AGREEMENT AND NETWORK OPERATING AGREEMENT AND ACCEPTING  
NOTICE OF CANCELLATION

(Issued February 2, 2007)

1. In this order, we accept, to be effective December 1, 2006, as requested, an executed Network Integration Transmission Service Agreement (NITSA) and an executed Network Operating Agreement (NOA) between Cleco Power LLC (Cleco) and Entergy Louisiana, LLC (Entergy Louisiana) which reflect the rollover of an existing coordination agreement to service under an Open Access Transmission Tariff (OATT). In addition, we accept the Notice of Cancellation for a coordination agreement between Cleco and Entergy Louisiana on file with the Commission as Rate Schedule No. 3, effective November 30, 2006, as requested. We also accept for filing Cleco's updated network transmission service customer list to be effective December 1, 2006, as requested.

**Background**

2. On December 4, 2006, Cleco submitted to the Commission an executed NITSA and executed NOA between Cleco and Entergy Louisiana, as well as an updated network transmission services customer list. In addition, Cleco submitted a Notice of Cancellation for Rate Schedule No. 3 (Coordination Agreement). Cleco states that it and Entergy Louisiana originally entered into the Coordination Agreement, which provides for the coordinated planning and operation of its Louisiana facilities, on September 1, 1955. It claims that the Coordination Agreement allowed Cleco and Entergy Louisiana to provide transmission and substation facilities for the use of the other party at specific rates. According to Cleco, the Coordination Agreement may be terminated by either party with a five-year advance notice. To that end, Cleco states that Entergy Louisiana satisfied the notice requirement for termination by letter dated October 26, 2001. Cleco

explains that Entergy Louisiana and Cleco decided to update their contractual relationship by having each party now take service under the other's OATT for service formerly taken under the Coordination Agreement.<sup>1</sup>

3. Cleco states that the NITSA and NOA establish the rates, terms and conditions of Entergy Louisiana's receipt of network service under Cleco's OATT. Cleco maintains that the NITSA identifies Entergy Louisiana's designated network resources and the applicable delivery points. Cleco states that the NITSA will terminate on December 1, 2016. It adds that the NITSA and NOA are designed to supersede and replace the Coordination Agreement, which terminated by its terms on November 30, 2006.

4. The updated network transmission services customer list includes Entergy Louisiana and Louisiana Generating LLC. Cleco states that it submitted a NITSA and NOA for Louisiana Generating LLC in Docket No. ER06-673-000, which was accepted by letter order dated October 5, 2006. Cleco states that it neglected to make changes to the network transmission service customer list in the previously mentioned docket, and thus submits an updated list in the instant proceeding.

5. Cleco states that its OATT contains a pro forma NITSA and a pro forma NOA for network service. Cleco submits that the proposed NITSA is identical to the pro forma network service agreement included in its OATT, with the exception of two changes to carry forward certain treatment of distribution and substation facilities incorporated into the existing Coordination Agreement. First, in its incorporation of a new section 3.5, Cleco states that it carried over the Coordination Agreement's previous facility charge of \$0.4450 per kW-month of demand. Second, Cleco claims that section 4.0 of the NITSA provides for the treatment of losses for delivery at 34.5 kV and also carries forward the treatment designated under the Coordination Agreement. Cleco asserts that the NOA submitted is substantially identical to the pro forma NOA with some non-substantive clarifying wording changes incorporated. Because of the changes, Cleco explains that it is submitting the NITSA and NOA for filing as non-conforming service agreements.

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<sup>1</sup> Cleco notes that in Docket No. ER06-1555-000, Entergy filed a new NITSA regarding the replacement service to be provided to Cleco under Entergy's OATT. Entergy also filed a Notice of Cancellation of its Rate Schedule No. 11, the Entergy side of the 1955 Coordination Agreement. On November 28, 2006, the Commission accepted the proposed NITSA and Notice of Cancellation and established hearing and settlement judge procedures with respect to one issue -- whether Entergy properly allowed the rollover of the Coordination Agreement in the NITSA without performing any new transmission studies, including whether Entergy included new receipt and delivery points. *Entergy Services, Inc.*, 117 FERC ¶ 61,236 (2006) (November 28 Order).

6. Cleco requests that the NITSA and NOA and updated network transmission service customer list be made effective December 1, 2006. It additionally requests that the Notice of Cancellation of Rate Schedule No. 3 be made effective November 30, 2006.

### **Interventions and Protests**

7. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 75,531 (2006), with interventions and protests due on or before December 26, 2006. Entergy Services, Inc. (Entergy)<sup>2</sup> and Louisiana Energy and Power Authority (LEPA) filed timely motions to intervene and comments. Lafayette Utilities System (Lafayette) filed a timely motion to intervene, a motion to consolidate and a protest. On December 26, 2006, Arkansas Electric Cooperative Corporation (AECC) filed a timely motion to intervene, comments and an answer in support of the motion to consolidate. On January 3, 2007, Cleco and Entergy filed answers opposing Lafayette's motion to consolidate and protest. Cleco also opposed AECC's motion to intervene. On January 24, 2007, Lafayette filed an answer to Entergy's answer.

### **Discussion**

#### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Notwithstanding Cleco's opposition to AECC's timely motion to intervene, we find that good cause exists to grant AECC's motion to intervene. We are satisfied that AECC has adequately demonstrated its interest in the outcome of this proceeding, that no other party represents its interest and that its participation may be in the public interest.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers of Entergy, Cleco and Lafayette because they have provided information that assisted us in our decision-making process.

#### **B. Analysis**

10. As discussed further below, we accept the proposed NITSA and NOA to become effective December 1, 2006, as requested. In addition, we accept the Notice of

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<sup>2</sup> On behalf of Entergy Louisiana (collectively, Entergy).

Cancellation effective November 30, 2006, as requested. We also accept the updated network transmission service customer list.

**1. Redispatch Concerns**

11. Lafayette devotes most of its protest to preexisting issues that are unrelated to the proposed NITSA and NOA at issue in this proceeding. It complains that for more than two years it has warned the Commission of serious transmission problems in what is known as the Acadiana Load Pocket. It notes that in May 2005 a new substation was placed into service that has reduced the number of redispatch events, but claims that the underlying problem remains. It complains that the third-party generation redispatch that is required in the Acadiana Load Pocket to avoid potential interruptions is a situation that can no longer be swept under the rug or ignored in the hope that installation of the Entergy Independent Coordinator of Transmission (ICT) will cure the problem.

12. Lafayette further asserts that these problems also create economic burdens that are not fairly shared, claiming that most of the burden falls on Lafayette and its customers. It claims that it bears a significant economic burden when SPP has directed redispatch of Lafayette's generation to resolve security limit violations on Entergy's system. Lafayette also complains that Entergy and Cleco have come to rely on forced redispatch as a cheap alternative to building needed transmission improvements.

13. Finally, Lafayette rejects the Commission's previously expressed view that Lafayette should file a complaint pursuant to section 206 of the Federal Power Act (FPA). It argues that it alone should not have to bear the burden to act, and that the Commission has a statutory obligation to protect Lafayette from the imposition of redispatch costs.

14. Cleco responds that Lafayette's arguments are unrelated to the matter at issue in this proceeding. It explains that Lafayette's claims are not based on any change in service that Cleco would provide under the agreements at issue in this proceeding. It further notes that Lafayette's desire to be compensated for dispatching its generation when required to do so by the reliability coordinator is faulty because Lafayette is not a network service customer of either Cleco or Entergy. Cleco also emphasizes that the Commission has already rejected Lafayette's claim for compensation for redispatch.<sup>3</sup> Cleco concludes that the Commission should dismiss Lafayette's protest and direct it to raise these issues, if at all, in a section 206 complaint.

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<sup>3</sup> Citing November 28 Order, 117 FERC ¶ 61,236 at P 45-48.

15. Entergy also opposes Lafayette's arguments, pointing out that the NITSA has been mutually agreed to and executed by Cleco and Entergy, Lafayette is not a party to the NITSA and Lafayette's arguments are without merit and beyond the scope of this proceeding. In particular, Entergy argues that Lafayette's claim that it should be paid by Entergy for changes in redispatch costs should be rejected. It asserts that Lafayette's claim that it is entitled to payments from Entergy goes well beyond any issue related to Entergy's rollover rights in this proceeding. Entergy also points out that the Commission recently rejected a similar claim of undue discrimination made by Lafayette in Docket No. ER06-1555-000.<sup>4</sup> Entergy explains that it is not required to build transmission facilities to address loop flows that can be alleviated, consistent with applicable reliability standards, by changes in dispatch or curtailment of the long-term firm resources on the systems causing the loop flows. Entergy further argues that there is no policy basis that would support requiring Entergy to fund Lafayette's dispatch costs incurred to address loop flows. It asserts that such a requirement would violate the cost causation principle by imposing on Entergy's transmission customers and retail customers costs for transmission facilities that are not needed to provide reliable transmission service on the Entergy system and for which such customers receive no benefit of offsetting transmission revenues. It adds that economic efficiency dictates that any such costs should be assigned to Lafayette.

16. Lafayette takes issue with Entergy's assertion that Lafayette is engaging in new "transactions" that are placing unexpected burdens on the area network. Lafayette states that the "transactions" to which Entergy refers are its transmission of capacity and energy from its ownership share of Rodemacher 2, which has consistently been used for twenty-four years pursuant to a firm transmission service agreement with Cleco. Lafayette also asserts that Entergy has come to rely on Lafayette redispatch, and that such long-term reliance on third-party redispatch is imprudent and inconsistent with accepted planning practices.

17. We find that Lafayette's arguments are beyond the scope of any matter at issue in this proceeding. As Lafayette itself recognizes, its complaint preexists the matter at issue in this proceeding – the rollover of an existing agreement to service under Cleco's OATT. Indeed, Lafayette has failed to demonstrate how the *rollover* of a longstanding existing agreement to the exact same transmission service under Cleco's OATT could in any way affect the situation raised by Lafayette. Accordingly, we will deny Lafayette's arguments and note that Lafayette is free to file a complaint pursuant to section 206 of the FPA.

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<sup>4</sup> *Id.* P 49.

## 2. Lack of System Impact Study

18. Lafayette raises the issue of whether the rollover could occur without a system impact study. Lafayette asserts that the Commission requires an impact study, even in the context of rollover, where the new service may place unexpected material burdens on the transmission provider's system. Lafayette claims that the rollover will impose significant new burdens due to Cleco's designation in, its NITSA for service on Entergy's system, of a new delivery point (Cane Bayou) and a new network resource (Rodemacher 3) in the Docket No. ER06-1555-000 proceeding. Lafayette argues that those impacts cannot be ignored in the context of the instant NITSA because both NITSAs result from the rollover of the same pre-order No. 888 agreement and that both NITSAs are therefore part and parcel of the same integrated transaction.

19. In response to Lafayette's claim that the rollover is invalid without a transmission impact study, Entergy notes that the Commission has made it clear that a transmission provider is under no obligation to perform any studies or provide any data demonstrating that it has sufficient capability to provide a particular rollover request.<sup>5</sup> Entergy explains that this is because the transmission provider has an ongoing obligation to plan its system and maintain available transmission capacity to provide existing transmission customers' rollover requests.<sup>6</sup> Entergy and Cleco note that only if a transmission customer with a rollover right requests a change to its receipt or delivery points would the transmission provider perform a study to determine whether it could provide the rollover requests.<sup>7</sup> Entergy states that there is no difference between the receipt and delivery points under the NITSA and the receipt and delivery points for the transmission service provided by Cleco under the Coordination Agreement. Entergy and Cleco add that there is no basis under the OATT or Commission precedent to require a transmission study by the transmission provider for a rollover of transmission service, with no change in receipt or delivery points, based on the transmission service being provided under another OATT.

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<sup>5</sup> *Citing Associated Elec. Coop., Inc. v. Southwest Power Pool, Inc.*, 117 FERC ¶ 61,114, at P 12 (2006) (*AECI v. SPP II*).

<sup>6</sup> *Citing Associated Elec. Coop., Inc. v. Southwest Power Pool, Inc.*, 115 FERC ¶ 61,213 at P 16 (*AECI v. SPP I*), *reh'g denied*, *AECI v. SPP II*.

<sup>7</sup> *Citing AECI v. SPP II*, 117 FERC ¶ 61,114 at P 12.

20. We find that the rollover of the instant NITSA to network service under Cleco's OATT is an exact rollover of the existing service under the Coordination Agreement.<sup>8</sup> As Entergy explains, a transmission provider is under no obligation to perform a system impact study to provide a rollover of the same service that it was previously providing. Because the rollover at issue is of the exact same service that was under the Coordination Agreement, we find that a system impact study is not required.<sup>9</sup> We also find no merit in Lafayette's argument that a transmission service being provided under another OATT on another transmission provider's system impacts a rollover being provided on Cleco's system. The two NITSAs are independent of one another, and a system impact study is not required because Entergy Louisiana simply proposes to carry forward the same delivery points and receipt points for the same loads and resources already served under the Coordination Agreement.

### 3. Network Resource Designation

21. In the context of its motion to consolidate, Lafayette questions whether the designation of network resources proposed by Entergy Louisiana is consistent with a study-free rollover. Lafayette notes that similar to the NITSA at issue in Docket No. ER06-1555-000, this NITSA reflects a designation of resources substantially in

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<sup>8</sup> Entergy Answer at 4 (receipt and delivery points under the NITSA are the same as those under the Coordination Agreement and no party argues otherwise); Cleco Answer at 2 ("No new delivery points or receipt points were added and none was changed. No new loads, new resources, or new rates are involved.")

<sup>9</sup> See, e.g., *AECI v. SPP I*, 115 FERC ¶ 61,213 at P 16, *reh'g denied*, *AECI v. SPP II*, 117 FERC ¶ 61, 114 at P 12 ("Only if a transmission customer with a rollover right requests a change to its receipt or delivery points would the transmission provider perform a study to determine whether it could provide the rollover request."); Order No. 888 at n. 176 ("If the customer chooses a new power supplier and this substantially changes the location or direction of its power flows, the customer's right to continue taking transmission service from its existing transmission provider may be affected by the transmission constraints associated with the change."); See also Order No. 888-A at n. 52.

excess of the designated network load.<sup>10</sup> Lafayette asserts that a consolidated proceeding would provide the best setting for deciding this issue.

22. Cleco and Entergy rebut Lafayette's argument regarding network resources and cite to the November 28 Order where the Commission accepted Cleco's designation of network resources despite Lafayette's claim that Cleco's network resources exceeded its network load.<sup>11</sup>

23. As the Commission explained in the November 28 Order, in Order No. 888 the Commission declined to impose specific limitations on the amount of network resources a customer may designate.<sup>12</sup> In the November 28 Order, the Commission rejected Lafayette's argument that designated network resources must match network load. Thus, we deny Lafayette's protest. Moreover, because this issue was not set for hearing or settlement judge procedures in Docket No. ER06-1555-000 and we are summarily deciding the issue in this proceeding, there is no basis for consolidating the two proceedings with respect to this issue.

#### **4. Facility Charge**

24. Cleco proposes to include the same facility charge of \$ 0.445 per kW-month in the NITSA that was contained in section 4.4 of the Coordination Agreement.

25. In the context of its motion to consolidate, Lafayette suggests that the facility charge may not be just and reasonable and requests that it be addressed in a single proceeding involving this proceeding and the proceeding in Docket No. ER06-1555-000.

26. Cleco states that Lafayette's concern regarding the pre-existing facility charges for service from pre-existing resources to pre-existing loads under the Coordination Agreement are not grounds for consolidation since each is a continuation of the service already being provided. Cleco explains that this continuation of pre-existing rates and

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<sup>10</sup> AECC notes that all or nearly all of the generating units of Entergy Louisiana have been designated as network resources in Attachment B to the NITSA. Further, it notes that it does not have an objection to the designation of the same resources on two different transmission providers' systems.

<sup>11</sup> November 28 Order, 117 FERC ¶ 61,236 at P 36.

<sup>12</sup> *Id.*



service was not an issue set for hearing in Docket No. ER06-1555-000 and it suggests that the Commission accept this continuation here and that there is nothing to consolidate. Entergy raises similar arguments.

27. Initially, we note that Cleco did not raise this issue in Docket No. ER06-1555-000 and the Commission accepted the \$0.445 per kW-month facility charge, without hearing or settlement judge procedures. Lafayette has provided no basis for now rejecting that same charge in this proceeding, which involves the rollover of the Coordination Agreement to a NITSA that includes the very same facility charge as was included in the Coordination Agreement. Moreover, because this charge was summarily accepted in Docket No. ER06-1555-000 and is being summarily accepted in this proceeding, there is simply no basis for consolidating the two proceedings with respect to this issue.

## **5. Motion to Consolidate**

28. Lafayette moves to consolidate the instant proceeding with the proceeding pending in Docket No. ER06-1555-000, which is before a settlement judge. It asserts that there are common issues of fact that would most efficiently be addressed in a single proceeding. As examples, Lafayette sets forth: (1) whether rollover without a transmission impact study was appropriate; (2) whether the facility distribution charge is just and reasonable; and (3) whether Cleco's designation of network resources were excessive. Further, Lafayette argues that the parties affected by the outcome in the instant case are essentially the same parties whose interests will be affected by the outcome of Docket No. ER06-1555-000. Lafayette also suggests that a consolidated proceeding would serve as an appropriate setting to consider issues relating to the Entergy Available Flowgate Capability (AFC) determination process. AECC supports the motion to consolidate.

29. Entergy opposes consolidation, stating that the alleged common issues cited by Lafayette clearly show that consolidation is not warranted. Entergy points out that whether rollover without transmission studies is appropriate is fact specific and not appropriate for a consolidation. Countering Lafayette's assertion that the level of the facility charge is a common issue in both cases, Entergy explains that the Commission did not set this issue for hearing in Docket No. ER06-1555-000 and that Lafayette has not raised any issues of material fact that warrant a hearing on the facility charge in this proceeding. Similarly, Entergy notes that the level of network resources designated in the NITSA in Docket No. ER06-1555-000 is not an issue in the settlement proceeding; in fact, the Commission accepted the resource designation in that proceeding after Lafayette raised the same argument.

30. Finally, Entergy states that, contrary to Lafayette's argument that a joint proceeding would serve as an appropriate setting to consider issues relating to the

Entergy AFC determination process, there is no connection whatsoever between Entergy's AFC process and the justness and reasonableness of the NITSA here or in Docket No. ER06-1555-000. In fact, Entergy states that its AFC process is only used to grant short-term transmission service, while the NITSA in Docket No. ER06-1555-000 and in this proceeding provide for long-term transmission service. Further, it explains, the AFC process is used to grant transmission service under Entergy's OATT and the NITSA at issue provides for transmission service under Cleco's OATT. Entergy concludes that Lafayette's arguments regarding the level of network resource designations and Entergy's AFC determination process go well beyond any matter that reasonably could be considered set for hearing in Docket No. ER06-1555-000.

31. Cleco also opposes consolidation, stating that none of the factors that the Commission uses generally to consolidate separate proceedings supports consolidation in these two proceedings. Cleco explains that the previous order rejected the merits of claims similar to those Lafayette is now asserting as grounds for consolidation.

32. We will deny Lafayette's motion to consolidate. Generally, we consolidate cases where there are common issues of law and fact for purposes of settlement, hearing and decision.<sup>13</sup> Here, there are no common issues of law and fact that would warrant consolidation for purposes of settlement, hearing and decision. As we have accepted Cleco's proposed NITSA and NOA in this proceeding, there is nothing to consolidate for purposes of settlement, hearing and decision. Moreover, as we noted *infra*, two of the three issues that Lafayette gave as examples of common issues of fact (facility charge and designation of network resources) were accepted by the Commission in Docket No. ER06-1555-000 and were not set for hearing or settlement judge procedures. As to the third example (whether rollover without a transmission impact study was appropriate), resolution of this issue is fact specific and not appropriate for consolidation. Moreover, in any event, we are accepting, in this proceeding, Cleco's proposed rollover without an impact study.

33. We also deny Lafayette's argument that a consolidated proceeding would serve as an appropriate setting to consider issues relating to Entergy's AFC determination process. As Entergy explains, there is no connection between Entergy's AFC determination process and the justness and reasonableness of the rollover of the NITSA at issue in this proceeding.

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<sup>13</sup> See *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,391, at P 45 (2004).

The Commission orders:

(A) Cleco's proposed NITSA and NOA are hereby accepted for filing to become effective December 1, 2006, as requested, as discussed in the body of this order.

(B) Cleco's Notice of Cancellation for the Coordination Agreement, Rate Schedule No. 3, is hereby accepted, to be effective November 30, 2006, as discussed in the body of this order.

(C) Cleco's network transmission service customer list is hereby accepted for filing to become effective December 1, 2006, as requested.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.